

David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Ste. 411
Telephone: (602) 452-3301
Facsimile: (602) 452-3484

**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of:)	
)	
PETITION FOR ADOPTION OF)	Supreme Court No. R-12-0013
AMENDMENTS TO THE ARIZONA)	
RULES OF PROTECTIVE ORDER)	COMMENT
PROCEDURE AND THE ARIZONA)	
RULES OF FAMILY LAW)	
PROCEDURE)	
_____)	

Comes now, David K. Byers, Administrative Director, Administrative Office of the Courts, and files this Comment for the Court's consideration regarding the above-captioned petition.

Should the Court decide to amend the rules as proposed by petitioner, the undersigned suggests the Court also adopt a related amendment to Supreme Court Rule 123, which governs the public's right to access court records. Rule 123 provides a convenient reference for court staff who process requests for access to case files. Adding the amendment proposed herein will facilitate judicial staff training and help to avoid inadvertent disclosure of case file records before the protective order has been served.

The undersigned proposes the following amendment for the Court's consideration:

Supreme Court Rule 123

* * *

(d) Access to Case Records.

All case records are open to the public except as may be closed by law, or as provided in this rule. Upon closing any record the court shall state the reason for the action, including a reference to any statute, case, rule or administrative order relied upon.

(1) Juvenile Delinquency Proceedings Records.

* * *

(2) Adult Criminal Records.

* * *

(3) Protective Orders. For as long as a plaintiff has the ability by law to have a protective order served or unless otherwise ordered by the court, the custodian shall not make publicly available any information regarding the filing of or contents of a petition for or issuance of a protective order until proof of service of the protective order has been filed with the court. The custodian may permit law enforcement agencies to access these records when necessary to carry out their official responsibilities.

~~(3)~~(4) *Judicial Work Product and Drafts.* Notes, memoranda or drafts thereof prepared by a judge or other court personnel at the direction of a judge and used in the process of preparing a final decision or order are closed.

~~(4)~~(5) *Unofficial Verbatim Recordings of Proceedings.* Electronic verbatim recordings made by a courtroom clerk or at the direction of the clerk and used in preparing minute entries are closed.

* * *

Wherefore the undersigned respectfully requests the Court amend Rule 123 as set forth above, in the event the Court adopts the changes proposed by petitioner.

RESPECTFULLY SUBMITTED this ____ day of _____, 20____

By /S/
David K. Byers, Administrative Director
Administrative Office of the Courts
1501 W. Washington, Ste. 411
Phoenix, AZ 85007
(602) 452-3301